IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 7504 of 2004

Between:

S.Babu, S/o.M.A.Razac,
R/o.C/o.Sri Venkateswara Theatre, Tirupati.

..... PETITIONER

AND

1 The Divisional forest officer Cum Forest officer, Flying squad, Piler.
2 The Forest Range officer, Flying Squad party, piler.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more particularly a writ in the nature of Mandamus, declaring the action of the Respondents in rejecting the application seeking interim custody through its order dated 28-12-2001 as illegal, arbitrary and consequently direct the respondents to release the vehicle bearing No.AP 03 V 513 in favour of the petitioner.

Counsel for the Petitioner:MR.D.SESHADRI NAIDU

Counsel for the Respondents: GP FOR FORESTS

The Court made the following :

ORDER:

Heard both sides and at their request, the main writ petition itself is taken up for final disposal.

The petitioner herein, who claims to be the owner of the vehicle bearing No.AP 03 V 513, filed this writ petition, *inter alia*, seeking a direction to the respondents to release the vehicle in question in his favour.

The case of the petitioner is that he is the owner and possessor of the above said vehicle and is eking out his livelihood by hiring the same. That on 11-08-2001, one Sri Babu Naidu and Sri Chandra Mouli of Chintakayalapally approached him to give the vehicle to them on hire for the purpose of transportation of sweet potatoes from Bodevandla pally to Koyambedu market of Chennai, and the said offer was accepted by him. Thereafter, on 13-08-2001, he received a call from the office of the 2nd respondent that the said vehicle was seized through proceedings in DOR.51/2001 on the ground that the vehicle was loaded with prohibited vegetables. Therefore, he filed an application dated 28-12-2001 before the 1st respondent, seeking interim custody of the vehicle, under Section 44 (3) of the Andhra Pradesh Forest Act, 1967. However, the 1st respondent rejected the same. Against which, he preferred an appeal before the II Additional District Judge, Madanapalle, vide Forest Appeal No.1 of 2002, whereby the learned Judge remanded the matter to the 1st respondent for fresh disposal of the case.

The main grievance of the petitioner is that pursuant to the remand order, the 1st respondent neither passed any order nor released the vehicle and that the delay in granting interim custody of the vehicle would result in irreparable loss to him.

Having regard to the submissions made on either side and from a perusal of the material on record and especially in view of the fact that the vehicle was seized as long back as in the year 2001, I do not find any justification to order for any interim custody or release of the said vehicle at this belated stage. Under these circumstances, it would suffice in the interest of justice to give a direction to the 1st

respondent for early disposal of the main case itself.

Therefore, the writ petition is disposed of directing the 1st respondent to dispose of the main case, within a period of two months from the date of receipt of a copy of this order, in accordance with law, after giving notice and adequate opportunity to the petitioner. No costs.

01-09-2004

gj

To

1 The Divisional forest officer Cum Forest officer, Flying squad, Piler.
2 The Forest Range officer, Flying Squad party, piler.

3 Two C.Cs. to the Government Pleader for Forests, High Court of A.P., Hyderabad.

4 Two C.D. copies.